MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 2, 2018/2019

UPP4622 – PROFESSIONAL PRACTICE II

(All Sections / Groups)

8th March 2019
Reading Time : 9.00 a.m. – 9.15 a.m.
(15 Minutes)
Answering Time: 9.15 a.m. – 12.15 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 4 pages with 4 Questions only.

3. **Section A** is **COMPULSORY** and carries 80 marks. In **Section B** attempt either **question 4(a) or 4(b)**. The distribution of the marks for each question is given.

4. Students are only allowed to bring in **CLEAN AND ORIGINAL COPY** of the following statutes into the exam venue:
   i. Contracts Act 1950, Civil Law Act 1956 & Rules of Court 2012
   ii. Probate and Administration Act 1959 (Act 97) & Regulations, Small Estates (Distribution) Act 1955 (Act 98) & Wills Act 1959 (Act 346)
   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited.

5. Please write all your answers in the Answer Booklet provided.

SECTION A : [COMPULSORY QUESTION]

QUESTION 1

Kelly aged 35years old was driving m/car no. BCC121 along Jalan Kabut to Jalan Damai on 5.8.2017 at about 8.30a.m., when suddenly a m/lorry no. WCD4625 coming from the opposite direction, overtook and encroached into her side of the road and collided into her m/car. The said m/lorry was driven by Nazim.

The front portion of Kelly's m/car sustained serious damage and the damage to the m/lorry also in the front right portion. Most of the glass splinters were found on Kelly's side of the road.

According to Nazim's police report, that was made 2 (two) hours after the collision, the accident happened due to the fault of the driver of m/car no. BCC121. The driver was driving at a high speed and did not slow down upon seeing his m/lorry overtaking and encroached onto her side of the road. Kelly however, in her police report made on the night of 5.8.2017 at about 9.00 p.m. stated that the m/lorry driver was at fault. The m/lorry which was from the opposite direction encroached onto her lane whilst overtaking another vehicle on its lane. She further alleged that the m/lorry driver was under the influence of alcohol, did not exercise care and panicked when he overtook and encroached onto her side of the road. The m/lorry driver should exercise care and should not overtake when it is dangerous to do so.

Kelly had two passengers in her m/car at the time of the said accident, Saleha aged 22 years old and Tony, a technician aged 36 years old. Both Saleha and Tony died in the accident. Saleha died on the way to Hospital Setiawan, while Tony died immediately after the collision. Saleha was not married and was taken care by his grandparents, Mr. and Mrs. Lepat aged 63 and 60 respectively. Saleha's parents, Mr. and Mrs. Ketupat were separated a few years ago and have their own lives.

Saleha was earning RM1,800 per month, working as a HR clerk at UTT Sdn. Bhd. Mr. and Mrs. Lepat claimed that Saleha and her sister, Ifah were staying with them. Saleha used to give RM300 per month to Mrs. Lepat for groceries and own expenses and allocate another RM250 per month for Mr. Lepat for her own used. Saleha also spend RM200 for Ifah's expenses. Ifah intends to claim for her loss as a result of Saleha's demise, as dependant. Mr. and Mrs. Lepat also paid the sum of RM5,000 for Saleha's funeral expenses.

While, Tony is survived by his wife, Tina aged 45 years and two (2) children, Terrasa aged 7 years old and Rosy aged 5 years old, at the time of the accident. Tina works as an apartment security guard with an income of RM1,300 per month. Currently the children are being looked after by Tina's neighbour on gratuitous basis. However, the neighbour will only be able to look after the children for about 5 months and by next month Tina has to allocate some money in order to send her children to a day care place.

Continued...

Before her death, Tony also worked partime selling chicken rice near Chong's mini market. He did not have any license to do so. He used to earn RM600 per month and spend RM200 for her personal expenses and the balance RM400 was used for the family's upkeep.

Due to the accident Kelly was injured on both her legs. Her right leg has now been amputated above the knee. She was working as an engineer earning RM3,500 per month. She was admitted to General Hospital, Melaka as it is the nearest to the place of accident and also nearest to her house. However, as she is worried about her leg being amputated, she asked to be discharged and went to the Baru Specialist Hospital. Later, three days after being admitted at the Baru Specialist Hospital, the specialist informed her that her legs need to be amputated as the condition had worsened. Her medical bill at the Baru Specialist Hospital came to RM20,000. She was admitted for a month and was on medical leave for 6 months.

Two years after the accident, she was dismissed by the company as she was unable to work efficiently as an engineer (as she has difficulty to move around and attending meetings on time).

As solicitors for Maju Eastern Bhd., insurers of m/lorry no. WCD4625, write an opinion advising them on the possible claims that could be made by the relevant parties (Kelly, Tony and Saleha dependants) based on the above facts.

(Total: 40 marks)

QUESTION 2

By a Will executed in 30 December 1996, Minato Namikaze appointed his friend, Asuma Sarutobi as the Executor and Trustee of his estate (Paragraph four). Paragraph five of the Will further provides that upon his death, the Executor shall distribute one-half of his estate to his infant son Uzumaki Naruto and the other half of the estate in equal shares to his wife, Kushina Uzumaki and his mother, Sakura Haruno.

Minato Namikaze was diagnosed as having a nose cancer. At about the time when he was undergoing treatment, it appears that he became estranged from his wife. He left the matrimonial home known as No. 27, Taman Aman, Melaka and went on to stay with his mother and his two brothers, Kakashi Hatake and Iruka Umino at No.4, Taman Bahagia, Selangor. He had petitioned for divorce.

Continued...

Minato Namikaze wishes to amend his previous Will using a Codicil. He informs you that he intends to appoint his two brothers, as his executors and trustees of his estate. He says he would like to bequeath RM1 to his ex-wife and gives the half-share owned by him in the matrimonial home to his mother, and his son in equal share. As for the residue of his estate, he leaves it to his mother. Finally, he wishes to be cremated and to have his ashes scattered over the ocean.

(a) Describe a Codicil by referring to the Rules of Court 2012.

(3 marks)

(b) Assuming Minato Namikaze is a non-Muslim, draft a valid Codicil form him.

(17 marks)
(Total: 20 marks)

QUESTION 3

"...There are three ways one can go about obtaining letter of administration. Firstly, they can apply to the High Court. Secondly, they can apply to Amanah Raya Bhd. But, this is for cases where the estate consists only of movable property and is valued at RM600,000 or less. Thirdly, they may apply to the land office as a small estate. This is done under the Small Estates (Distribution) Act, 1955..." – 'How to obtain letters of administration via small estate' mode',

The Star Online, retrieve on 29.11.2018.
[https://www.thestar.com.my/business/business-news/2018/09/03/how-to-obtain-letters-of-administration-via-small-estate-mode/]

In light of the above statement, discuss the condition and procedure for the application of distribution of estate under the Small Estate (Distribution) Act 1955.

(16 marks)

(b) When the involvement of the High Court is relevant in the above process?

(4 marks)
(Total: 20 marks)

Continued...

SECTION B: [CHOOSE EITHER 4(a) or 4 (b)]

QUESTION 4

a)

i. How to address the Court politely in the situation below:

a. when you feel that the judge has misunderstood the point; and
b. when you feel the judge has defeated your argument

(4 marks)

ii. Discuss 4 important factors that a solicitor should practice to deliver outstanding oral argument.

(16 marks)

(Total: 20 marks)

OR

b)

i. State 3 differences between court annex mediation and litigation?

(8 marks)

ii. Discuss 3 common mistake made by oral advocate in an appellate Court.

(12 marks)

(Total: 20 marks)

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